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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,650	07/17/2006	Robert John Barnes	KIL01 P437	4459
277 7590 09/17/2008 PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501				
			EXAMINER LE, DAVID D	
			ART UNIT 3681	PAPER NUMBER
			MAIL DATE 09/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/550,650

**Applicant(s)**

BARNES ET AL.

**Examiner**

David D. Le

**Art Unit**

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 09/27/05  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the first Office action on the merits of Application No.10/550,650, filed 17 July 2006. Claims 1-12 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
  - Copy of Foreign Priority Document, received on 09/27/05
  - Declaration and Power of Attorney, received on 07/17/06

### ***Drawings***

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Claims 1 and 8 are objected to because of the following informalities:
- Claim 1, lines 4-5 recite the limitation “a control device operable to control independently controlling the pressure of the fluid and the flow of the fluid” should be -- a control device operable to control independently controlling a pressure of the fluid and a flow of the fluid --.
  - Claim 8, lines 4-5 recite the limitation “independently controlling the pressure of the fluid and the flow of the fluid” should be --independently controlling a pressure of the fluid and a flow of the fluid--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S.**

**Patent No. 3,941,007 to Webber et al. (hereinafter referred to as Webber).**

*Claims 1 and 8:*

***Webber*** (Figs. 1-5; column 3, line 30 – column 16, line 42) discloses a transmission comprising:

- An actuator body (i.e., Fig. 3, element 43a) having an opening for transporting of fluid into and out of the actuator body;
- An actuating member (i.e., Fig. 3, element 48a) within the actuator body, moveable by the fluid; and
- A control device (i.e., Fig. 1, element 12) operable to control independently a pressure of the fluid and a flow of the fluid.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 2-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webber et al. in view of U. S. Patent No. 6,276,224 to Ueda et al. (hereinafter referred to as Ueda).**

**Claims 2-7 and 9-12:**

*Webber* discloses the limitations as set forth above. Regarding claims 2-7 and 9-12, *Webber* does not explicitly disclose:

- A proportional flow control valve;
- A proportional pressure control valve;
- A pre-defined profile for controlling the pressure;
- A pre-defined profile for controlling the flow;

- Wherein the control device is operable to control at least one of the pressure and flow by a current signal; and
- Wherein the actuator is a hydraulically operated actuator.

*Ueda* (Figs. 1-8; column 1, line 11 – column 11, line 29), on the other hand, teaches as shift control apparatus comprising:

- An actuator (i.e., Fig. 1, element 65);
- A proportional flow control valve (i.e., Fig. 1, element 52b);
- A proportional pressure control valve (i.e., Fig. 1, element 52a);
- A pre-defined profile for controlling the pressure (i.e., Fig. 4);
- A pre-defined profile for controlling the flow (i.e., Fig. 2);
- Wherein a control device (i.e., Fig. 1, element 58) is operable to control at least one of the pressure and flow by a current signal; and
- Wherein the actuator is a hydraulically operated actuator.

Since all the claimed elements were known in the prior art, one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Petrzik (U. S. Patent No. 7,300,375) teaches a hydraulic circuit for controlling a double clutch transmission, as shown in Fig. 3.
- Kennedy (U. S. Patent No. 7,275,455) teaches an automatic gear system, as shown in Figs. 1-4.
- Taylor (U. S. Patent No. 7,188,540) teaches a method and an apparatus for controlling a transmission, as shown in Figs. 1-4.
- Spooner et al. (U. S. Patent No. 5,836,207) teaches a ratio selector mechanism, as shown in Figs. 1-10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/  
Primary Examiner, Art Unit 3681  
09/14/2008

ddl